

and equipment, such as ventilators, and that requests were delayed or ignored for days, diminishing the quality of medical care.¹²⁶ Team leaders report that NDMS officials regularly refuse requests for restocking and that, as a result, teams “almost always deploy with an insufficient cache.”¹²⁷ The majority report finds that equipment and supplies “were in heavy demand and could not quickly be replenished.” It also notes that many DMATs arrived without their caches. But it does not address why these problems occurred or who was responsible for addressing these preexisting deficiencies.

IV. FAILURE OF LEADERSHIP AT THE DEPARTMENT OF HOMELAND SECURITY

A major hurricane striking the Gulf Coast and New Orleans was one of the top three potential disasters facing the United States. Yet the evidence before the Select Committee shows that the Secretary of the Department of Homeland Security, Michael Chertoff, was detached and relatively disengaged in the key days before Katrina hit. He also had the atrocious judgment to rely on Michael Brown as his “battlefield commander,” despite his lack of training. The majority report finds that Secretary Chertoff made a series of critical mistakes, especially with respect to a basic understanding and execution of the National Response Plan. Reviews by the Government Accountability Office and the White House come to similar conclusions. We agree with these findings and call for the replacement of Secretary Chertoff.

A. Failure to Understand or Invoke National Response Plan

After the attacks of September 11, 2001, the Homeland Security Act transferred responsibility for responding to both natural and man-made disasters to a newly created Department of Homeland Security. As Secretary, Michael Chertoff was charged by the Act and by presidential directive with responsibility for managing the overall federal response to Hurricane Katrina. We agree with the majority report finding that Secretary Chertoff executed these responsibilities “late, ineffectively, or not at all.”

In proposing a new Department of Homeland Security on June 6, 2002, President Bush observed that while “as many as a hundred different government agencies have some responsibilities for homeland security ... no one has final accountability.”¹²⁸ To provide this accountability, Congress passed the Homeland Security Act of 2002, which made the Secretary of Homeland Security

¹²⁶ Minority Staff, Special Investigations Division, House Committee on Government Reform, *The Decline of the National Disaster Medical System* (Dec. 2005).

¹²⁷ *Id.*

¹²⁸ White House, *Remarks by the President in Address to the Nation* (June 6, 2002) (online at www.whitehouse.gov/news/releases/2002/06/20020606-8.html).

responsible for “providing the Federal Government’s response to terrorist attacks and major disasters,” including “managing such response” and “coordinating other Federal response resources in the event of a terrorist attack or major disaster.”¹²⁹

Despite these statutory responsibilities, the chronology of Secretary Chertoff’s actions shows a seeming disengagement from federal preparation and response efforts. In his testimony before the Select Committee, Secretary Chertoff reported that on Saturday, August 27, two days before landfall, he worked from home.¹³⁰ He also conceded that he missed a teleconference to discuss storm preparations on that day, although he claimed he received a subsequent briefing. Secretary Chertoff’s testimony left the impression that he remained in close contact with his office during the day. But no communications were ever provided to the Select Committee to document this. Moreover, the Select Committee was informed that Secretary Chertoff does not use e-mail, which means that this vital means of communication was not available to him from home.

On the same day that Secretary Chertoff remained at home, Leo Bosner, a 26-year FEMA employee, stated that he was shocked by the lack of urgency at the Emergency Operations Center.¹³¹ Mr. Bosner, who managed the night shift, said he sent a report to top officials before his shift ended on Saturday morning warning that Katrina was headed towards Louisiana with potentially catastrophic consequence. Yet when he returned for his shift on Saturday night, he said little had changed:

We’d been expecting that, given our reports and so on, that there’d be some extraordinary measures taking place. So when we come in Saturday night and nothing much had happened — you know, we had a few medical teams, a few search teams were in place, but there was no massive effort that we could see. There was no massive effort to organize the city of New Orleans in an organized way that clearly had to be done. There was no massive mobilization of national resources other than the few that were out there. And I think most of us — I can’t speak for everyone, but I know that I and a number of my colleagues just — we felt sort of shocked.¹³²

¹²⁹ Homeland Security Act of 2002, Pub. L. No. 107-296, § 502.

¹³⁰ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹³¹ *Analysis: FEMA Official Says Agency Heads Ignored Warnings*, National Public Radio (Sept. 16, 2005).

¹³² *Id.*

On Sunday, Secretary Chertoff participated in a video teleconference and in calls with governors. He testified that he was satisfied that Michael Brown had the resources and cooperation that he needed to handle the hurricane.¹³³

Secretary Chertoff participated in a telephone call with the President on Monday, the day Katrina hit, but the call related primarily to immigration policy.¹³⁴ On Tuesday, Secretary Chertoff traveled to Atlanta for a briefing on avian flu.

The Select Committee report expresses particular concern that Secretary Chertoff failed to invoke the National Response Plan prior to Hurricane Katrina making landfall. The Homeland Security Act gives Secretary Chertoff responsibility for “consolidating existing Federal Government emergency response plans into a single, coordinated national response plan.”¹³⁵ Homeland Security Presidential Directive 8, which was issued in December of 2003, stated:

The Secretary is the principal Federal official for coordinating the implementation of all-hazards preparedness in the United States. In cooperation with other Federal departments and agencies, the Secretary coordinates the preparedness of Federal response assets, and the support for, and assessment of, the preparedness of State and local first responders.¹³⁶

The majority report finds that Secretary Chertoff did not fulfill these responsibilities in preparation for Hurricane Katrina:

Perhaps the single most important question the Select Committee has struggled to answer is why the federal response did not adequately anticipate the consequences of Katrina striking New Orleans and, prior to landfall, begin to develop plans to move boats and buses into the area to rescue and evacuate tens of thousands of victims from a flooded city. At least part of the answer lies in the Secretary’s failure to invoke the National Response Plan – Catastrophic Incident Annex, to clearly and forcefully instruct everyone involved with the federal response to be proactive, anticipate future requirements, develop plans to fulfill them, and execute those plans without waiting for formal requests from overwhelmed state and local response officials.

¹³³ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹³⁴ *Id.*

¹³⁵ Homeland Security Act of 2002, Pub. L. No. 107-296, § 502.

¹³⁶ White House, Homeland Security Presidential Directive/HSPD 8 (Dec. 17, 2003) (online at www.whitehouse.gov/news/releases/2003/12/20031217-6.html).

We agree with this finding. We also concur with the majority report's finding that Secretary Chertoff "should have invoked the Catastrophic Incident Annex to direct the federal response," as well as its finding that he "should have convened the Interagency Incident Management Group on Saturday, two days prior to landfall."

We also agree with the majority report's observation that this was a failure of leadership:

We are left scratching our heads at the range of inefficiency and ineffectiveness that characterized government behavior right before and after this storm. But passivity did the most damage. The failure of initiative cost lives, prolonged suffering, and left all Americans justifiably concerned our government is no better prepared to protect its people than it was before 9/11.

B. Misplaced Reliance on Michael Brown

We further agree with the majority report that Secretary Chertoff misplaced his trust in Michael Brown, the FEMA Director, to act as his "battlefield commander." The majority report finds that Secretary Chertoff "should have designated the Principal Federal Official on Saturday, two days prior to landfall." The majority report also concludes that Secretary Chertoff should have selected a Principal Federal Official "from the roster of PFOs who had successfully completed the required training, unlike FEMA Director Michael Brown." We agree with both findings. Failing to designate a qualified official prior to the hurricane left Michael Brown in charge by default.

During the Select Committee hearing on October 19, 2005, Secretary Chertoff testified that he relied on Mr. Brown to "manage this thing as the battlefield commander" who would "understand what the priorities were, which were first and foremost saving human lives, rescuing people, getting them food, water, medical assistance and shelter" and "execute those priorities in an urgent fashion."¹³⁷

Prior to Hurricane Katrina, however, multiple reports had raised questions about Mr. Brown's leadership of FEMA. A report by the DHS Inspector General criticized FEMA's performance responding to four hurricanes in Florida in 2004, finding that the agency's systems for managing the personnel and equipment were

¹³⁷ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

inadequate.¹³⁸ Instead of remedying these problems, Mr. Brown disputed the report's accuracy, claiming FEMA systems were "highly performing" and "well managed."¹³⁹ A report on the National Disaster Medical System found that under Mr. Brown's leadership, NDMS was "woefully underfunded, undermanned, and too remote from DHS leadership to gain the visibility it needs" due to "FEMA's inflexible and inappropriate management."¹⁴⁰ Mr. Brown's response to the report was to tell NDMS officials to "get over it."¹⁴¹

Despite these warnings, Secretary Chertoff left Mr. Brown in charge of mobilizing all preparations before Hurricane Katrina struck. And he did so despite Mr. Brown's evident lack of qualifications. As has been now widely reported, Mr. Brown did not have a background in emergency response prior to joining FEMA at the beginning of the Bush Administration. Instead, he had spent the previous decade as Judges & Stewards Commissioner of the International Arabian Horse Association.¹⁴²

Mr. Brown's inability to manage a crisis is apparent from his e-mails that were provided to the Select Committee. Far from being an effective battlefield commander, Michael Brown's e-mails show that he was befuddled and disengaged. In the midst of the crisis, Mr. Brown found the time to exchange e-mails about his appearance, his reputation, and other nonessential matters. But few of his e-mails demonstrated leadership or a command of the challenges facing his agency.¹⁴³

During the height of the crisis, it appears that Mr. Brown was reporting directly to the White House, effectively bypassing Secretary Chertoff and cutting him out of the chain of command. Secretary Chertoff testified that he repeatedly tried but failed to communicate with Mr. Brown. Secretary Chertoff testified that he grew increasingly frustrated on Tuesday:

I would say that starting in the late morning — and the deputy and I both were trying to do this — rising in crescendo through the afternoon and late

¹³⁸ Department of Homeland Security, Office of the Inspector General, *Emergency Preparedness and Response Could Better Integrate Information Technology with Incident Response and Recovery* (Sept. 2005) (OIG-05-36).

¹³⁹ *Id.*

¹⁴⁰ Department of Homeland Security, *Medical Readiness Responsibilities and Capabilities: A Strategy for Realigning and Strengthening the Federal Medical Response* (Jan. 3, 2005)

¹⁴¹ *Brown's Turf Wars Sapped FEMA's Strength*, Washington Post (Dec. 23, 2005).

¹⁴² International Arabian Horse Association, *Former International Arabian Horse Association Judges & Stewards Commissioner, Michael Brown* (Sept. 7, 2005) (online at <http://secure.arabianhorses.org/apps/index.cgi?page=pressrel&prid=41>).

¹⁴³ Staff Report for Rep. Charlie Melancon, *Hurricane Katrina Document Analysis: The E-mails of Michael Brown* (Nov. 2, 2005).

afternoon I made it very clear to the people I was speaking to and communicating through that I expected Mr. Brown forthwith to get in touch with me because I insisted on speaking to him. I wound up speaking to his chief of staff. I rarely lose my temper, but I lost my temper to some degree with his chief of staff.¹⁴⁴

Yet on Tuesday evening, Mr. Chertoff made another mystifying decision: he designated Michael Brown as Principal Federal Official in charge of the federal response.¹⁴⁵ The majority report asks why Secretary Chertoff “would have deviated from the requirements of the National Response Plan and designated an untrained individual to serve as PFO for such a catastrophic disaster.” It answers this question by concluding that Secretary Chertoff “was confused about the role and responsibilities of the PFO.” We agree.

It is also unclear why Secretary Chertoff retained Michael Brown for five days as the federal response continued to deteriorate. Secretary Chertoff testified before the Select Committee:

On Thursday ... the question that arose in my mind was whether I needed to supplement the battlefield management on the ground with some additional skills. And whether I ought to bring someone in with a different set of experiences to manage what I thought was the most troubled part of the operation. ... And then ultimately on Friday I made the determination that I would put Admiral Allen in control of the entire operation.”¹⁴⁶

Ironically, on the same day Secretary Chertoff decided to relieve Mr. Brown of his duties, President Bush traveled to New Orleans and uttered his now-famous praise: “Brownie, you’re doing a heck of a job.”¹⁴⁷

C. Contrast with Hurricane Rita

There is a stark contrast between Secretary Chertoff’s actions before Hurricane Katrina and his actions before Hurricane Rita, which struck Texas and the Gulf

¹⁴⁴ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹⁴⁵ Memorandum from Michael Chertoff, Secretary of Homeland Security, *Designation of Principal Federal Official for Hurricane Katrina* (Aug. 30, 2005).

¹⁴⁶ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹⁴⁷ *FEMA Director Faces a Wave of Destruction, Despair and Criticism*, Associated Press (Sept. 3, 2005).

inadequate.¹³⁸ Instead of remedying these problems, Mr. Brown disputed the report's accuracy, claiming FEMA systems were "highly performing" and "well managed."¹³⁹ A report on the National Disaster Medical System found that under Mr. Brown's leadership, NDMS was "woefully underfunded, undermanned, and too remote from DHS leadership to gain the visibility it needs" due to "FEMA's inflexible and inappropriate management."¹⁴⁰ Mr. Brown's response to the report was to tell NDMS officials to "get over it."¹⁴¹

Despite these warnings, Secretary Chertoff left Mr. Brown in charge of mobilizing all preparations before Hurricane Katrina struck. And he did so despite Mr. Brown's evident lack of qualifications. As has been now widely reported, Mr. Brown did not have a background in emergency response prior to joining FEMA at the beginning of the Bush Administration. Instead, he had spent the previous decade as Judges & Stewards Commissioner of the International Arabian Horse Association.¹⁴²

Mr. Brown's inability to manage a crisis is apparent from his e-mails that were provided to the Select Committee. Far from being an effective battlefield commander, Michael Brown's e-mails show that he was befuddled and disengaged. In the midst of the crisis, Mr. Brown found the time to exchange e-mails about his appearance, his reputation, and other nonessential matters. But few of his e-mails demonstrated leadership or a command of the challenges facing his agency.¹⁴³

During the height of the crisis, it appears that Mr. Brown was reporting directly to the White House, effectively bypassing Secretary Chertoff and cutting him out of the chain of command. Secretary Chertoff testified that he repeatedly tried but failed to communicate with Mr. Brown. Secretary Chertoff testified that he grew increasingly frustrated on Tuesday:

I would say that starting in the late morning — and the deputy and I both were trying to do this — rising in crescendo through the afternoon and late

¹³⁸ Department of Homeland Security, Office of the Inspector General, *Emergency Preparedness and Response Could Better Integrate Information Technology with Incident Response and Recovery* (Sept. 2005) (OIG-05-36).

¹³⁹ *Id.*

¹⁴⁰ Department of Homeland Security, *Medical Readiness Responsibilities and Capabilities: A Strategy for Realigning and Strengthening the Federal Medical Response* (Jan. 3, 2005)

¹⁴¹ *Brown's Turf Wars Sapped FEMA's Strength*, Washington Post (Dec. 23, 2005).

¹⁴² International Arabian Horse Association, *Former International Arabian Horse Association Judges & Stewards Commissioner, Michael Brown* (Sept. 7, 2005) (online at <http://secure.arabianhorses.org/apps/index.cgi?page=pressrel&prid=41>).

¹⁴³ Staff Report for Rep. Charlie Melancon, *Hurricane Katrina Document Analysis: The E-mails of Michael Brown* (Nov. 2, 2005).

afternoon I made it very clear to the people I was speaking to and communicating through that I expected Mr. Brown forthwith to get in touch with me because I insisted on speaking to him. I wound up speaking to his chief of staff. I rarely lose my temper, but I lost my temper to some degree with his chief of staff.¹⁴⁴

Yet on Tuesday evening, Mr. Chertoff made another mystifying decision: he designated Michael Brown as Principal Federal Official in charge of the federal response.¹⁴⁵ The majority report asks why Secretary Chertoff “would have deviated from the requirements of the National Response Plan and designated an untrained individual to serve as PFO for such a catastrophic disaster.” It answers this question by concluding that Secretary Chertoff “was confused about the role and responsibilities of the PFO.” We agree.

It is also unclear why Secretary Chertoff retained Michael Brown for five days as the federal response continued to deteriorate. Secretary Chertoff testified before the Select Committee:

On Thursday ... the question that arose in my mind was whether I needed to supplement the battlefield management on the ground with some additional skills. And whether I ought to bring someone in with a different set of experiences to manage what I thought was the most troubled part of the operation. ... And then ultimately on Friday I made the determination that I would put Admiral Allen in control of the entire operation.”¹⁴⁶

Ironically, on the same day Secretary Chertoff decided to relieve Mr. Brown of his duties, President Bush traveled to New Orleans and uttered his now-famous praise: “Brownie, you’re doing a heck of a job.”¹⁴⁷

C. Contrast with Hurricane Rita

There is a stark contrast between Secretary Chertoff’s actions before Hurricane Katrina and his actions before Hurricane Rita, which struck Texas and the Gulf

¹⁴⁴ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹⁴⁵ Memorandum from Michael Chertoff, Secretary of Homeland Security, *Designation of Principal Federal Official for Hurricane Katrina* (Aug. 30, 2005).

¹⁴⁶ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹⁴⁷ *FEMA Director Faces a Wave of Destruction, Despair and Criticism*, Associated Press (Sept. 3, 2005).

Coast just three weeks later. Before Hurricane Rita, Secretary Chertoff traveled with President Bush to NORTHCOM headquarters in Colorado to monitor preparations for the storm.¹⁴⁸ They spent the night there, and continued to manage the response from NORTHCOM headquarters as the storm made landfall.¹⁴⁹ Secretary Chertoff designated Hurricane Rita an Incident of National Significance the day before it struck landfall.¹⁵⁰ In addition, he named Coast Guard Admiral Larry Hereth to serve as Principal Federal Official for Hurricane Rita on September 22, 2005, two days before that hurricane struck.¹⁵¹ Admiral Hereth had 32 years of experience managing federal operations.

During a briefing provided to the Select Committee by the White House on December 15, 2005, Deputy Homeland Security Advisor Ken Rapuano was asked about the differences in Secretary Chertoff's responses to the two hurricanes. He attributed them to the lessons learned from Hurricane Katrina, explaining that the Department had learned how devastating a hurricane could be.¹⁵²

What Mr. Rapuano did not explain is why it took Hurricane Katrina to alert Secretary Chertoff to the consequences of a massive hurricane hitting New Orleans and the Gulf Coast. There were multiple reports prepared by the Department and other experts relating to the Hurricane Pam exercise warning that a "catastrophic hurricane" striking southeastern Louisiana would cause a "mega-disaster."¹⁵³ These documents warned that such a hurricane "could result in significant numbers of deaths and injuries, trap hundreds of thousands of people in flooded areas, and leave up to one million people homeless."¹⁵⁴ They also warned expressly that "the gravity of the situation calls for an extraordinary level of advance planning to improve government readiness."¹⁵⁵ In the face of these dire warnings, Secretary Chertoff's disengagement remains a mystery.

For these reasons, we fully agree with the majority report's concern that "given the advanced warning provided by the National Hurricane Center and the well-documented catastrophic consequences of a category 4 hurricane striking New Orleans, it is unclear why Secretary Chertoff did not exercise these responsibilities sooner or at all."

¹⁴⁸ *Hurricanes Katrina and Rita Were Like Night and Day*, Washington Post (Sept. 25, 2005).

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² Briefing by Ken Rapuano, Deputy White House Homeland Security Advisor, to House Select Committee (Dec. 15, 2005).

¹⁵³ Federal Emergency Management Agency, *Combined Catastrophic Plan for Southeast Louisiana and the New Madrid Seismic Zone: Scope of Work* (2004).

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

D. Failure to Plan for Catastrophic Incidents

Beyond the mistakes Secretary Chertoff made in the days directly before and after Hurricane Katrina struck, the majority report also identifies longer-term planning deficiencies at the Department of Homeland Security. We agree with the majority's conclusions that these failures presaged and compounded the disaster.

We agree with the majority report's finding that "implementation of lessons learned from Hurricane Pam was incomplete." The possibility of a massive hurricane striking the Gulf Coast was considered one of the top three disasters the nation might face.¹⁵⁶ Yet FEMA Director Michael Brown testified before the Select Committee that his requests for additional funding to implement the lessons learned from the Hurricane Pam exercise were denied:

QUESTION: You are under oath as saying you didn't get the money to implement what you learned from Hurricane Pam. And you're telling us that your numbers were depleted, your dollars were depleted, and you saw your department eviscerated. That's what you told this committee now.

MR. BROWN: That's correct.¹⁵⁷

The Select Committee did not receive an adequate rationale for this decision to deny the Hurricane Pam funding.

We also agree with the majority report's finding that "massive" communications inoperability "impaired response efforts, command and control, and situational awareness." As the majority report concludes, there was "a failure to adequately plan for alternatives." This problem was highlighted by the 9/11 Commission when communications problems arose at all three crash sites:

The inability to communicate was a critical element at the World Trade Center, Pentagon, and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible

¹⁵⁶ See, e.g., *Sharp Criticism of U.S. Response, Lack of Action to Prevent Disaster*, San Francisco Chronicle (Sept. 2, 2005); *Keeping Its Head Above Water*, Houston Chronicle (Dec. 1, 2001); *The Big One Is Coming*, Hartford Courant (Oct. 16, 2005); *Disaster Raises Question for California*, Dallas Morning News (Sept. 11, 2005); *Katrina's Aftermath: Government Response*, Houston Chronicle (Sept. 11, 2005); *Anarchy, Anger, Desperation: The Response*, San Francisco Chronicle (Sept. 2, 2005).

¹⁵⁷ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109th Cong. (Sept. 27, 2005).

and adequate communications among public safety organizations at the local, state, and federal levels remains an important problem.¹⁵⁸

To remedy this problem, the Homeland Security Act of 2002 gave the Secretary of Homeland Security responsibility for “developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.”¹⁵⁹

Hurricane Katrina made clear that this responsibility was not met. The majority report concludes that “Joint Task Force Katrina, the National Guard, Louisiana, and Mississippi lacked needed communications equipment.” It also finds that “medical responders did not have adequate communications equipment or operability.” We agree with these findings.

To this list we would add FEMA. Several FEMA officials told the Select Committee that they had approximately 100 satellite telephones. Yet the Select Committee could not determine where even one of these satellite phones was deployed. To the contrary, we were informed that FEMA Director Michael Brown did not have one, FEMA public affairs official Marty Bahamonde did not have one, and FEMA Deputy Federal Coordinating Officer Phil Parr did not have one.¹⁶⁰ In fact, Mr. Parr told the Select Committee that FEMA was prevented from mobilizing its roving communications vehicle, a Multiple Emergency Operations Vehicle called the “Red October,” to the Superdome because it was not designed to operate in flooded areas. He also said FEMA had no contingency plans for air dropping communications equipment into affected areas.¹⁶¹

We also agree with the majority report that Secretary Chertoff’s coordination with the Defense Department “was not effective.” In testimony before the Select Committee, Secretary Chertoff conceded there were major breakdowns with the Department of Defense, stating that the absence of adequate planning “goes to how well we work with the military when the military has large numbers of assets they can bring to bear on a problem, how fluid we are with them.”¹⁶² According to Secretary Chertoff, better planning with the military would have allowed the

¹⁵⁸ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report*, p. 397 (2004).

¹⁵⁹ Homeland Security Act of 2002, Pub. L. No. 107-296, § 502.

¹⁶⁰ Interview of Phil Parr, Deputy Federal Coordinating Officer, Federal Emergency Management Agency, by Select Committee Staff (Dec. 6, 2005); Interview of Michael Lowder, Deputy Director of Response, Federal Emergency Management Agency, by Select Committee Staff (Jan. 5, 2006).

¹⁶¹ Interview of Phil Parr, Deputy Federal Coordinating Officer, Federal Emergency Management Agency, by Select Committee Staff (Dec. 6, 2005).

¹⁶² House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

federal government to “to respond hours and maybe even days earlier to some of the issues that were addressed on a Thursday and a Friday that might have been addressed on a Tuesday or a Wednesday.”¹⁶³

In addition to the planning failures noted in the majority report, we note that Secretary Chertoff failed to complete a required operational supplement to the National Response Plan for more than seven months. The National Response Plan issued in January 2004 established broad lines of authority for agencies responding to catastrophic events. It stated that a “more detailed and operationally specific” supplement would set forth in detail the precise role of each agency involved in federal response efforts.¹⁶⁴ But this Catastrophic Incident Supplement languished and was not completed until September 6, 2005 — seven days after Hurricane Katrina struck.

To investigate this delay, Chairman Davis and Rep. Melancon sent a letter to Secretary Chertoff on September 30, 2005, which requested a wide range of documents, including all previous drafts of the Catastrophic Incident Supplement.¹⁶⁵ When the Department did not provide them, Rep. Melancon reiterated the importance of these documents in a letter to Chairman Davis on January 10, 2006.¹⁶⁶ Although the Department provided the final draft, it did not provide any previous versions. As a result, the Select Committee was not able to analyze the negotiations between agencies to determine the cause of the delay.

In his testimony before the Select Committee, Secretary Chertoff conceded that one of the biggest failures was the failure to plan. He testified that the federal government “did not have the kind of integrated planning capabilities that you need to deal with the kind of catastrophe we faced in Katrina.”¹⁶⁷ Over and over again, Secretary Chertoff pointed to a lack of planning as the key to the federal government’s response failures. As he stated to Rep. Thornberry: “I think 80% or more of the problem lies with the planning. ... [I]t doesn’t come naturally to civilian agencies for the most part to do the kind of disciplined planning for a complicated operation.”¹⁶⁸ What Secretary Chertoff did not explain was why he failed in this critical planning function, which is his under the Homeland Security Act.

¹⁶³ *Id.*

¹⁶⁴ Department of Homeland Security, *National Response Plan* (Dec. 2004).

¹⁶⁵ Letter from Select Committee Chairman Tom Davis and Rep. Charlie Melancon to Michael Chertoff, Secretary of Homeland Security (Sept. 30, 2005).

¹⁶⁶ Letter from Rep. Charlie Melancon to Select Committee Chairman Tom Davis (Jan. 10, 2006).

¹⁶⁷ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Department of Homeland Security*, 109th Cong. (Oct. 19, 2005).

¹⁶⁸ *Id.*

E. “The Emaciation of FEMA”

Evidence before the Select Committee showed that FEMA’s ability to respond to natural disasters significantly degraded following the enactment of the Homeland Security Act, which moved FEMA into the Department of Homeland Security. We agree with the majority report that both “DHS and FEMA lacked adequate trained and experienced staff for the Katrina response.” As the head of the Department, Secretary Chertoff bears at least partial responsibility for this deterioration of FEMA.

Under the Clinton Administration and the leadership of James Lee Witt, FEMA was regarded as a premier, Cabinet-level, all-hazards planning and response agency. But after its transfer to the Department of Homeland Security in 2003, its capacity to respond deteriorated.

During his testimony before the Select Committee, Michael Brown testified that “one of my frustrations over the past three years has been the emaciation of FEMA.”¹⁶⁹ He cited not only “brain drain” caused by the loss of senior career FEMA officials, but also what he euphemistically called a DHS “tax,” which he described as “assessments imposed by DHS which is money that’s drawn out of different programs used for DHS-wide programs.”

Additional evidence obtained by the Select Committee supported Mr. Brown’s assertions. For example, on January 5, 2006, the Select Committee conducted an interview with FEMA Deputy Director of Response Michael Lowder. He reported that the number of personnel on national emergency response teams had been cut from a high of 300 in the mid-1990s to a low of 50 today.¹⁷⁰

Mr. Brown testified that he protested organizational and budgetary decisions that diminished the role of FEMA, and the importance of disaster response, within the Department of Homeland Security. He testified that “it has been a personal struggle over the past two or three years to keep that place together because of this resource problem.”¹⁷¹

When asked whether he documented these concerns to his superiors, Mr. Brown replied: “I’m certain I did lay it out in writing. ... I know I wrote to Secretary Ridge when he was secretary. I’ve done memos to Secretary Chertoff and Deputy

¹⁶⁹ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109th Cong. (Sept. 27, 2005).

¹⁷⁰ Interview of Michael Lowder, Deputy Director of Response, Federal Emergency Management Agency, by Select Committee Staff (Jan. 5, 2006).

¹⁷¹ House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109th Cong. (Sept. 27, 2005).

Secretary Jackson.”¹⁷² Mr. Brown also testified that he requested additional resources for disaster response in the Department of Homeland Security budget, but that those requests were denied.

The Select Committee was provided with a copy of a September 15, 2003, memo from Mr. Brown to then-Secretary Ridge, warning that removing some of FEMA’s preparedness functions would “fundamentally sever FEMA from its core functions,” “shatter agency morale,” and “break longstanding, effective and tested relationships with states and first responder stakeholders.”¹⁷³

Despite multiple requests for similar documents directed to Secretary Chertoff, however, the Department of Homeland Security has failed to provide them. In a story that ran on December 23, 2005, the *Washington Post* quoted from memos sent from Mr. Brown to Secretary Chertoff warning that “this reorganization has failed to produce tangible results,” and “a total of \$77.9 million has been permanently lost from the base.”¹⁷⁴ The report also cited an e-mail to Secretary Chertoff’s deputy, warning: “FEMA is doomed to failure and loss of mission.”¹⁷⁵ The Department did not provide these documents to the Select Committee.¹⁷⁶

F. GAO and White House Findings

Reports by the nonpartisan Government Accountability Office and the White House itself have largely come to the same conclusions as the Select Committee regarding Secretary Chertoff’s actions. On February 1, 2006, GAO issued preliminary findings concluding as follows:

No one was designated in advance to lead the overall federal response in anticipation of the event despite clear warnings from the National Hurricane Center. ... [T]he DHS Secretary designated Hurricane Katrina as an incident of national significance on August 30th — the day after final landfall. However, he did not designate the storm as a catastrophic event, which would have triggered additional provisions of the National Response Plan (NRP), calling for a more proactive response. As a result,

¹⁷² *Id.*

¹⁷³ Memorandum from Michael D. Brown, Under Secretary of Homeland Security for Emergency Preparedness and Response, to Tom Ridge, Secretary of Homeland Security (Sept. 15, 2003) (DHS-FEMA-0116-000001).

¹⁷⁴ *Brown’s Turf Wars Sapped FEMA’s Strength*, *Washington Post* (Dec. 23, 2005).

¹⁷⁵ *Id.*

¹⁷⁶ Michael Brown provided to the Committee some budget-related documents that he retained in his personal possession.

the federal posture generally was to wait for the affected states to request assistance.¹⁷⁷

GAO went on to explain the importance of the Secretary's role in conducting the planning necessary to prepare for catastrophic disasters like Hurricane Katrina:

Although the NRP framework envisions a proactive national response in the event of a catastrophe, the nation does not yet have the types of detailed plans needed to better delineate capabilities that might be required and how such assistance will be provided and coordinated. ... The leadership to ensure these plans and exercises are in place must come from DHS.¹⁷⁸

GAO concluded that without such leadership from Secretary Chertoff, major breaches appeared in the chain of command:

In the absence of timely and decisive action and clear leadership responsibility and accountability, there were multiple chains of command, a myriad of approaches and processes for requesting and providing assistance, and confusion about who should be advised of requests and what resources would be provided within specific timeframes.¹⁷⁹

Ultimately, GAO concluded that “[n]either the DHS Secretary nor any of his designees, such as the Principal Federal Official (PFO), filled this leadership role during Hurricane Katrina.”¹⁸⁰

The White House came to similar conclusions, although it couched its findings in general terms rather than mentioning specific officials responsible. During a briefing to the Select Committee on December 15, 2005, the White House provided more than 60 specific findings from its own review of the government's response to Hurricane Katrina.¹⁸¹ Some of the findings related to Secretary Chertoff's duties under the Homeland Security Act, including:

- The National Response Plan did not function as planned.
- National Response Plan command and coordination were incomplete.

¹⁷⁷ U.S. Government Accountability Office, *Statement by Comptroller General David M. Walker on GAO's Preliminary Observations Regarding Preparedness and Response to Hurricanes Katrina and Rita* (Feb. 1, 2006) (GAO-06-365R).

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ Briefing by Ken Rapuano, White House Deputy Homeland Security Advisor, to Select Committee (Dec. 15, 2005).

- Lack of comprehensive national strategy and plans to unite communications plans, architectures, and standards.
- No guidance for worst case effects to the communications infrastructure.
- Federal response did not inform nongovernmental organizations what resources were required and how to connect local, State, and Federal emergency managers.
- There was no Federal coordinating entity with a complete understanding of the interdependency of critical infrastructure sectors.
- Focus on terrorism rather than all hazards.¹⁸²

G. New Leadership for the Department of Homeland Security

The discussion of Secretary Chertoff's response is in many ways the strongest part of the majority views. Unlike other areas, where the report eschews accountability, the majority makes affirmative findings that identify major shortcomings in Secretary Chertoff's actions. These findings are confirmed by the conclusions of GAO and the internal White House review.

Ultimately, though, the majority report does not draw the logical conclusion to its own findings. Former FEMA Director Michael Brown is the only federal official who has lost his job and been held accountable for the dismal federal response. He should not be alone. As the majority findings make clear, Secretary Chertoff provided ineffective leadership at a time of great crisis. We therefore recommend his replacement. We believe the President should appoint an official familiar with emergency management to the nation's top homeland security post.

V. THE NEED FOR AN INDEPENDENT COMMISSION

Given the key gaps that remain in the Select Committee's work, we recommend the creation of an independent commission based on the model of the 9/11 Commission. The Select Committee has significantly advanced public understanding of the response to Hurricane Katrina. But it failed to surmount White House intransigence and rarely assigned accountability for mistakes. These shortcomings can only be addressed by the appointment of a truly independent commission.

¹⁸² *Id.*